

## **REMARKS**

### **Overview**

The present application includes claims 1, 5, 21-47, 49-57 and 59-62. The Examiner is thanked for the courtesies extended to the undersigned during the telephone interview of August 24, 2007.

### **Claim Objections**

Claim 55 was objected to for an informality. Claim 55 has been amended as suggested by the Examiner. Removal of the objection is respectfully requested.

### **Claim Rejections**

Claims 43, 49, and 53 were rejected because the specification does not indicate the outlet is devoid of restrictions. The specification has been amended to indicate that outlet 22 is devoid of restrictions. The support for this amendment is provided in Fig. 1 of the application as filed showing outlet 22 devoid of restrictions. Removal of the rejection of these claims is respectfully requested. Note also that the Official Action determined that McDuff (U.S. Patent No. 6,893,485) taught an outlet substantially devoid of restrictions based on a drawing (Fig. 3).

Claims 48 and 58 were rejected because the specification fails to teach the wire mesh tubes are spaced apart from the inner wall of the shell. These claims have been cancelled. Regardless, Fig. 1 of the application shows the tubes spaced apart from the inner wall. Further, wire mesh wall 52 is positioned between the wire mesh tubes 52 and the wall to space the wire mesh tubes 52 away from the inner wall. Removal of the rejection is respectfully requested.

Claims 45, 51, and 55 were rejected as being indefinite. These claims have been amended to clarify the scope of the claims to the extent necessary. Removal of the rejection is respectfully requested.

### **Prior Art Rejections**

The Official Action rejected claims 1, 21, 24, 28, 31-34, 36, and 41-58 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,443,724 to Williamson (hereinafter "Williamson").

Claim 1 requires and Williamson fails to teach or suggest "the flow of liquid being directed to travel in a radial direction across the plurality of wire mesh tubes to radially enter and radially exit the side walls of the plurality of wire mesh tubes." As discussed in the interview, the flow of fluid in Williamson is not in a radial direction across the plurality of wire mesh tubes. Removal of the rejection of claims 1, 28, and 43-47 is respectfully requested.

Claim 21 requires and Williamson fails to teach or suggest a "minority portion of the plurality of tubes being positioned in the direct flow path of the flow of liquid directly between the inlet and outlet of the shell with the flow of fluid between the inlet and outlet flowing directly across the minority portion of the plurality of tubes in a substantially radial direction." As discussed above, the flow of fluid in Williamson is not directed across the tubes in a substantially radial direction. Removal of the rejection of claims 21, 24, 49, and 50 is respectfully requested.

Claim 31 requires and Williamson fails to teach or suggest "at least one elongate core element having a rigidity greater than the plurality of wire mesh tubes." Removal of the rejection of claim 31-34, 51, and 52 is respectfully requested.

Claim 36 requires and Williamson fails to teach or suggest "a wire mesh retaining wall surrounding the plurality of tube." Removal of the rejection of claims 36, 41, 42, and 53-57 is respectfully requested.

The Official Action rejected claims 1, 3, 5, 21-59 under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,893,485 to McDuff (hereinafter "McDuff") in view of U.S. Patent No. 5,500,132 (hereinafter "Elmi") with or without additional references.

For the Official Action to establish a prima facie case of obviousness, it must follow the guidelines set forth by the Supreme Court in *Graham v. John Deere* that is required "in each and every case." See MPEP §2141. These guidelines include 1) determining the scope and contents of the prior art; 2) ascertaining the differences between the prior art and the claim in issue; 3) resolving the level of ordinary skill in the art; and 4) evaluating evidence of secondary considerations. The Official Action fails to address at least items 3 and 4. Because of this failure to consider each of the *Graham* factors, the Official Action does not establish obviousness.

The Official Action never establishes the level of ordinary skill in the art. Without establishing this, the Applicant is unable to understand the view point of the Official Action

regarding the alleged obviousness of the rejected claims. Furthermore, the Official Action fails to consider or address the negative consequences of some of the proposed combinations. For example, providing McDuff with a plurality of tubes rather than the single disclosed element will increase the expense of McDuff. The Official Action fails to consider that the device of Elmi is removing liquid rather than air.

It appears that the Official Action has fallen into the trap of using hindsight to formulate several of the rejections. For example, the rejections of several claims rely on up to four prior art references. It appears that the Official Action is using the teachings of the present claims to navigate the numerous prior art references. Such use of hindsight is impermissible. The Applicant respectfully requests that the use of hindsight reconstruction be avoided.

For at least this reasons, Applicant submits that independent claims 1, 21, 31, and 36 are in condition for allowance. Such action is respectfully requested. Claims 5, 22-30, and 32-47, 49-57, and 59-61 depend from these independent claims and are believed to be in condition for allowance for at least the reasons given above and for the further limitations of claims. Such action is respectfully requested. Claims 3, 4, and 58 have been cancelled.

#### **Final Remarks**

Claims 1, 5 and 21-47, 49-57, and 59-62 are believed to be in condition for allowance. Such allowance is respectfully requested.

If necessary, please consider this a Petition for Extension of Time to effect a timely response. Please charge any additional fees or credits to the account of Baker & Daniels Deposit Account No. 02-0390.

In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

s/Norman J. Hedges/

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